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By: 
Jordon Magat

Docket No.: 019282-000210US

Client Ref. No.: X-0002R1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ronald W. Barrett

Application No.: 09/675,525

Filed: 09/29/2000

For: COMPOUNDS DISPLAYED ON REPLICABLE GENETIC PACKAGES AND METHODS OF USING SAME

Examiner: Gerald G. Leffers, Jr.

Art Unit: 1636

REQUEST FOR RECONSIDERATION
OF PATENT TERM ADJUSTMENT
INDICATED IN NOTICE OF
ALLOWANCE UNDER 37 C.F.R. § 1.705

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request for reconsideration of the Determination of Patent Term Adjustment attached to the Notice of Allowance mailed on January 22, 2004. The issue fee is being paid as set forth in the papers attached hereto.

Pursuant to 37 C.F.R. § 1.705(b)(1), the Commissioner is authorized to charge the amount of \$200 under 37 C.F.R. § 1.18(e); \$400 under 37 C.F.R. § 1.18(f); and any other fees associated with this Request, to deposit account number 20-1430.

Pursuant to 37 C.F.R. § 1.705(b)(2), a Statement of Facts is submitted herewith. As indicated in the Statement, Applicants believe that the Patent Term Adjustment should read 314 days, not 0 days.

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07/19/2005 TBESHAW2 00000050 201430 09675525

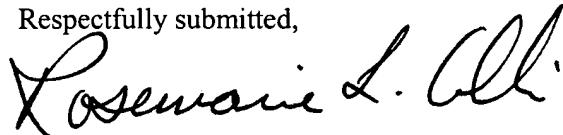
04 FC:1456 400.00 DA

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Application No.: 09/675,525
Request For Reconsideration of Patent Term Adjustment
Page 2

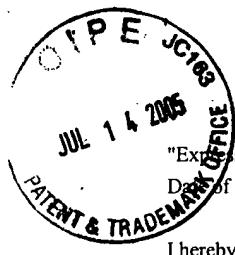
A favorable action on the Request is requested. If there are any questions or concerns, please contact the undersigned attorney.

Respectfully submitted,



Rosemarie L. Celli
Reg. No. 42,397

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: (650) 326-2400
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RLC
60537565 v1



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Date of Deposit: July 14, 2004

Docket No.: 019282-000210US

Client Ref. No.: X-0002R1

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By:

Jordon Magat

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ronald W. Barrett

Application No.: 09/675,525

Filed: 09/29/2000

For: COMPOUNDS DISPLAYED ON REPLICABLE GENETIC PACKAGES AND METHODS OF USING SAME

Examiner: Gerald G. Leffers, Jr.

Art Unit: 1636

STATEMENT OF FACTS
UNDER 37 C.F.R. § 1.705(b)(2)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Statement of Facts is being submitted in support of the "Request For Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance" which is submitted herewith.

The patent term adjustment shown on the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) attached to the Notice of Allowance is 0 (zero) days. It is respectfully suggested that the correct patent term adjustment is 657 days.

37 C.F.R. § 1.705(b)(2)(i), (ii) and (iv)

The bases on which Applicants seek adjustment are as follows:

I. Period for adjustment pursuant to 37 C.F.R. § 1.703

37 C.F.R. § 1.702(b) provides for grounds for adjustment of a patent term if the USPTO fails to issue a patent within three years of the actual filing date of the application. 37 C.F.R. § 1.703(b) provides the period for adjustment under 37 C.F.R. § 1.702(b).

This patent application was filed on September 29, 2000. The 3-year anniversary of the filing date is September 29, 2003. Since the issue fee is being paid concurrently with this filing, any patent issuing from this application will not issue within three years of September 29, 2003. Assuming that the patent issues on the Tuesday that is 28 weeks from the mailing of the Notice of Allowance mailed on April 14, 2005, then the patent would issue on October 25, 2005. Accordingly, the period for adjustment under 37 C.F.R. § 1.703 is 757 days.

II. Reduction of period for adjustment pursuant to 37 C.F.R. § 1.704

The period for reduction of period of adjustment of patent term is specified in 37 C.F.R. § 1.704. It is determined as follows:

(1) In response to a Notice to Comply with Sequence Listing Rules mailed on December 17, 2001, Applicants filed a Response on January 29, 2002. In response to a Notice of Incomplete Response to Sequence Listing Rules Request mailed on March 21, 2002, Applicants filed a Response on April 12, 2002. The reduced period for adjustment for these Responses is believed to be 37 days.

(2) In response to a Restriction Requirement mailed January 16, 2003, Applicants filed an Response on March 17, 2003. The reduced period for adjustment for this Response is believed to be 0.

Application No.: 09/675,525
Request For Reconsideration of Patent Term Adjustment
Page 3

(3) In response to the non-final Office Action mailed June 3, 2003, Applicants filed an Amendment on September 3, 2003. The reduce period adjustment for this Amendment is believed to be 0 days.

Applicants note that the PAIR Patent Term Adjustment Report (attached hereto as Exhibit 1) erroneously states that the Amendment was filed on March 1, 2004. Copies of the following documents provide evidence that the Amendment was filed on September 3, 2003: (1) USPO Express Mail Label bearing the "Date In" and date stamp of September 3, 2003 (attached hereto as Exhibit 2); and, (2) the postcard bearing the OIPE date stamp of September 3, 2003 (attached hereto as Exhibit 3).

(4) In response to a Notice of Non-Compliant Amendment mailed June 1, 2004, Applicants filed a Response on June 28, 2004. The reduce period adjustment for this Amendment is believed to be 0 days.

(5) Applicants submitted an IDS on August 25, 2004. The reduced period of adjustment for this submission is believed to be 58 days.

(6) In response to the final Office Action mailed September 29, 2004, Applicants filed an Amendment on January 3, 2005. The reduce period adjustment for this Amendment is believed to be 5 days.

(7) In response to the Advisory Action mailed March 7, 2005, Applicants filed an Amendment on March 25, 2005. The reduce period adjustment for this Amendment is believed to be 0 days.

(8) In response to the Advisory Action mailed January 18, 2005, Applicants filed an Amendment on February 24, 2005. The reduce period adjustment for this Amendment is believed to be 0 days.

The total reduced period for adjustment pursuant to (1)-(8) above is believed to be 100 days.

III. Period for adjustment

Since the period for adjustment is 757 days and the reduction of the period for adjustment is 100 days, *Applicants submit that the Patent Term Adjustment on the Notice of Allowance should be 657 days, not 0 days.*

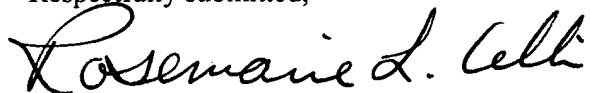
37 C.F.R. § 1.705(b)(2)(iii)

Any patent granted on this application (37 C.F.R. 1.705(b)(2)(iii)) is not subject to a terminal disclaimer.

Conclusion

Applicants request that the USPTO acknowledge the error in the Determination of Patent Term Adjustment mailed with the Notice of Allowance, and further change the determination to indicate that the Patent Term Adjustment is 657 days, instead of 0 days.

Respectfully submitted,



Rosemarie L. Celli
Reg. No. 42,397

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**PATENT APPLICATION INFORMATION RETRIEVAL**

Patent Term Adjustment (PTA) for publication number: 09/675,525		
		Days
Filing or 371(c) Date:	09-29-2000	USPTO Delay (PTO): 413
Issue Date of Patent:	-	Three Years: -
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL): 435
Post-Issue Petitions (days):	+0	Total PTA: 0
USPTO Adjustment (days):	+0	Explanation of Calculations

Search Options

- Assignments
- Continuity Data
- Display References
- Image File Wrapper
- File History
- Publication Review

Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
04-14-2005	Mail Notice of Allowance		
04-11-2005	Issue Revision Completed		
04-13-2005	Notice of Allowance Data Verification Completed		
04-13-2005	Case Docketed to Examiner in GAU		
04-12-2005	Notice of Allowability		
03-31-2005	Date Forwarded to Examiner		
03-25-2005	Amendment/Argument after Notice of Appeal		
03-25-2005	Request for Extension of Time - Granted		
03-07-2005	Mail Advisory Action (PTOL - 303)		
03-04-2005	Advisory Action (PTOL-303)		
03-01-2005	Date Forwarded to Examiner		
02-24-2005	Amendment/Argument after Notice of Appeal		
01-18-2005	Mail Advisory Action (PTOL - 303)		
01-18-2005	Advisory Action (PTOL-303)		
01-13-2005	Date Forwarded to Examiner		
01-03-2005	Amendment/Argument after Notice of Appeal		
01-03-2005	Notice of Appeal Filed		5
01-03-2005	Workflow incoming amendment IFW		↑
12-21-2004	Mail Examiner Interview Summary (PTOL - 413)		↑
12-16-2004	Examiner Interview Summary Record (PTOL - 413)		↑
09-29-2004	Mail Final Rejection (PTOL - 326)		↑
09-28-2004	Final Rejection		↑

08-25-2004	Information Disclosure Statement (IDS) Filed	58
07-09-2004	Reference capture on IDS	↑
07-09-2004	Date Forwarded to Examiner	↑
06-28-2004	Response after Non-Final Action	119
06-28-2004	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
06-28-2004	Workflow incoming amendment IFW	↑
06-28-2004	Workflow incoming amendment IFW	↑
06-03-2004	Mail Notice of Informal or Non-Responsive Amendment	↑
03-16-2004	IFW Amended case processing Complete	↑
03-16-2004	Date Forwarded to Examiner	↑
03-01-2004	Informal or Non-Responsive Amendment after Examiner Action	↑
03-01-2004	Response after Non-Final Action	180
03-01-2004	Request for Extension of Time - Granted	↑
06-03-2003	Mail Non-Final Rejection	↑
06-02-2003	Non-Final Rejection	
05-23-2003	Case Docketed to Examiner in GAU	
04-09-2003	Case Docketed to Examiner in GAU	
03-29-2003	Date Forwarded to Examiner	
03-17-2003	Response to Election / Restriction Filed	
03-17-2003	Request for Extension of Time - Granted	
01-16-2003	Mail Restriction Requirement	413
01-16-2003	Requirement for Restriction / Election	↑
10-04-2002	Case Docketed to Examiner in GAU	↑
08-26-2002	Case Docketed to Examiner in GAU	↑
08-20-2002	Case Docketed to Examiner in GAU	↑
04-11-2002	Information Disclosure Statement (IDS) Filed	↑
05-07-2002	CRF Is Good Technically / Entered into Database	↑
04-24-2002	Date Forwarded to Examiner	↑
04-12-2002	Response to a Letter to Comply with the Sequence Rules	↑ 73
03-12-2002	Mail Incomplete Response to Sequence Rule Request	↑ ↑
03-11-2002	Incomplete Response to Sequence Rule Request	↑ ↑
02-26-2002	CRF Is Flawed Technically / Not Entered into Database	↑ ↑
02-24-2002	Date Forwarded to Examiner	↑ ↑
01-29-2002	Response to a Letter to Comply with the Sequence Rules	↑ ↑
12-07-2001	Mail Letter Requiring CRF (Unreadable, Non-Compliant, Not Submitted)	↑
12-06-2001	CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted	↑
05-14-2001	Case Docketed to Examiner in GAU	↑
04-18-2001	Application Dispatched from OIPE	↑
04-13-2001	Correspondence Address Change	↑
04-13-2001	Application Is Now Complete	↑
04-12-2001	Correspondence Address Change	↑
11-15-2000	Notice Mailed--Application Incomplete--Filing Date Assigned	↑
11-15-2000	Correspondence Address Change	↑
10-30-2000	IFW Scan & PACR Auto Security Review	↑
09-29-2000	Initial Exam Team nn	↑



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PO BOX 1450
ALEXANDRIA
VA 22313-1450

TO: (PLEASE PRINT) **EDWARD J. DIAZ**

16

Exhibit 2

PTO Stamp indicates receipt of: Patent Matter Trademark Matter

Application Docket No.: 019282-000210US

Applicant: Barrett et al.

Title or Mark: Compounds Displayed on Replicable Genetic Packages and Methods of Using Same

Serial/Reg. No.: 09/675,525

Filed/Issued Date: September 29, 2000

LIST ALL DOCUMENTS BEING SENT TO PATENT OFFICE:

1. Transmittal Form
2. Amendment (20 pages)

Initials: SLA/tnd Express Mail No. EV 326935114 US Date: September 3, 2003

RECD
PTO Stamp indicates receipt of: Patent Matter

Trademark Matter

SEP 24 2003

Application Docket No.: 019282-000210US

Applicant: Barrett et al.

Title or Mark: Compounds Displayed on Replicable Genetic Packages and Methods of Using Same

Serial/Reg. No.: 09/675,525

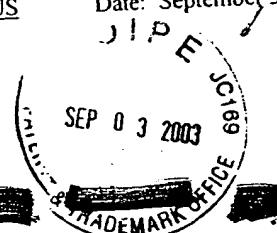
Filed/Issued Date: September 29, 2000

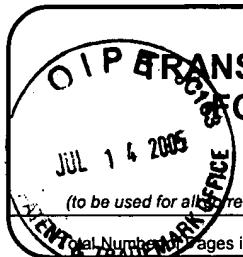
LIST ALL DOCUMENTS BEING SENT TO PATENT OFFICE:

1. Transmittal Form
2. Amendment (20 pages)

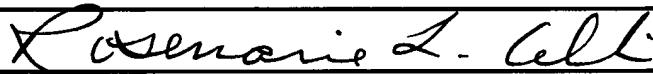
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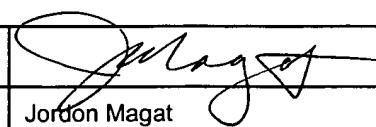
Date: September 3, 2003



 OPI TRANSMITTAL FORM <small>JUL 14 2005</small> <small>(to be used for all correspondence after initial filing)</small>		Application Number 09/675,525 Filing Date September 29, 2000 First Named Inventor Barrett, Ronald W. Art Unit 1636 Examiner Name Leffers Jr., Gerald G <small>Total Number of Pages in This Submission</small> 15 Attorney Docket Number 019282-000210US	
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ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form (1 p., submitted in duplicate). <input type="checkbox"/> Amendment/Reply <ul style="list-style-type: none"> <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <ul style="list-style-type: none"> <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input checked="" type="checkbox"/> After Allowance Communication to TC. <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <ol style="list-style-type: none"> 1. Request for Reconsideration of PTA (2 pp.); 2. Statement of Facts (4 pp.) w/attached Exhibit 1 (2 pp.), Exhibit 2 (1 p.), and Exhibit 3 (1 p.); 3. PTOL-85 (1p., submitted in duplicate) and, 4. Return Receipt Postcard.
		Remarks
The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Townsend and Townsend and Crew LLP		
Signature			
Printed name	Rosemarie L. Celli		
Date	July 14, 2005	Reg. No.	42,397

CERTIFICATE OF EXPRESS MAIL			
Express Mail Label: EV 530 893 230 US I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 on July 14, 2005 and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Jordon Magat	Date	July 14, 2005



Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$600)

<i>Complete if Known</i>	
Application Number	09/675,525
Filing Date	September 29, 2000
First Named Inventor	Barrett, Ronald W.
Examiner Name	Leffers, Jr., Gerald G.
Art Unit	1636
Attorney Docket No.	019282-000210US

METHOD OF PAYMENT (check all that apply)

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For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

<u>Application Type</u>	<u>FILING FEES</u>		<u>SEARCH FEES</u>		<u>EXAMINATION FEES</u>		
	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Fees Paid (\$)</u>
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent

Small Entity

Fee (\$) Fee (\$)

50 25

Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent

200 100

Multiple dependent claims

360 180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
-20 or HP =	x	=				

HP = highest number of total claims paid for, if greater than 20

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
-3 or HP =	x	=				

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 100 =	/ 50 =	(round up to a whole number) x	=	

Fees Paid (\$)

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: CFR §1.18(e) (\$200) and CFR §1.18(f) (\$400).

600

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 42,397	Telephone 650-326-2400
Name (Print/Type)	Rosemarie L. Celli		Date July 14, 2005

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